

May 21, 2012

Honorable Lee Yeakel  
U.S. District Judge  
U.S. District Court for the Western District of Texas  
200 West 8th Street  
Austin, Texas 78701

Via CM/ECF

Re: *Bandspeed, Inc. v. Sony Electronics, Inc., et al.*, Civil Action No. 1:11-cv-00771-LY, In the United States District Court for the Western District of Texas, Austin Division

Dear Judge Yeakel:

This letter provides an update on the status of discovery in this matter and further support for entry of plaintiff Bandspeed Inc.'s ("Bandspeed") proposed Protective Order, Order Regarding Production of Documents and Electronically Stored Information, and Discovery Order (Doc. 875, Exs. 1-3),<sup>1</sup> Bandspeed's proposed Scheduling Order (Doc. 886, Ex. 1), the parties' Stipulations Regarding Discovery (Docs. 887, 888, 890), and Bandspeed's proposed Order compelling stipulated discovery from Cambridge Silicon Radio Limited ("CSR") (Doc. 891, Ex. 1).

CSR refuses to produce source code in this matter until a protective order is entered by the Court. In addition, CSR has not produced any documents in response to stipulated discovery. Although Bandspeed has offered to stipulate to the terms of CSR's proposed protective order (without waiver of Bandspeed's position) to allow production of source code and other information pending entry of an order by the Court, CSR has refused this offer. Moreover, certain third parties have objected to production of documents that are subject to confidentiality agreements until a protective order is entered by the Court.

Further, eight of the 14 remaining End-Product Defendants failed to provide a sworn statement identifying Accused Products, including the chips used in the Accused Products, by May 14, 2012, the date proposed by Defendants in their proposed Scheduling Order (Doc. 886, Ex. 2 at 1). These Defendants still have not provided this information. In addition, many of the responses provided by other defendants are incomplete or non-responsive. End-Product Defendants and CSR originally were obligated to produce this information on April 5, 2012, in response to Bandspeed's formal discovery requests. All End-Product Defendants and CSR subsequently agreed to produce this information through Stipulated Discovery (although RIM Defendants

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<sup>1</sup> See also Bandspeed's Memorandum in Support of Entry for Orders (Doc. 876).

ultimately refused to execute the final stipulation). Given the accelerated schedule in this case, Bandspeed proposed disclosure of this information by May 7, 2012 and disclosure of associated volume information by May 14, 2012 (Doc. 886, Ex. 1). Although Defendants proposed identifying all Accused Products by May 14, most End-Product Defendants have failed to comply with their own proposed schedule.

Defendants' continued refusal to respond to discovery in this matter has prejudiced and continues to prejudice Bandspeed's ability to prepare its case for trial in the time allowed. In addition, Defendants' delay undermines any opportunity of the parties to meaningfully engage in mediation of this matter. The parties have agreed to open a window to mediate this dispute on May 25, 2012 and Bandspeed and CSR have agreed to mediation on June 14–15, 2012. To meaningfully engage in mediation, Bandspeed needs immediate production of the information it has requested in discovery.

Finally, Bandspeed would like to inform the Court that two proposed dates in Bandspeed's proposed Scheduling Order (Doc. 886, Ex. 1) inadvertently omitted Bluetooth SIG, Inc. ("BT SIG"). The entries for August 4, 2014 and August 11, 2014, should include Bandspeed, End-Product Defendants, and BT SIG. These entries should be identical to Defendants' proposed entries for those two dates. (Doc. 886, Ex. 2.) Bandspeed will submit an amended proposed order to correct this inadvertent omission.

Please notify us if the Court requires additional information from Bandspeed on this matter.

Very truly yours,

/s/ Christopher V. Goodpastor  
Christopher V. Goodpastor

cc:

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